

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

TUESDAY SHALON JOHNSON,)	
)	
Petitioner,)	
)	
vs.)	Case No. CIV-13-812-M
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

On September 24, 2013, United States Magistrate Judge Shon T. Erwin issued a Report and Recommendation in this case. The Magistrate Judge recommended that this action be dismissed without prejudice for lack of jurisdiction. Petitioner was advised of her right to object to the Report and Recommendation by October 15, 2013. On October 17, 2013, petitioner filed her objection. In her objection, petitioner contends that this case should be transferred to the Tenth Circuit for authorization to file a second successive § 2255 motion rather than dismissed. For the reasons set forth by the Magistrate Judge, and particularly in light of the Tenth Circuit's recent decision in *In re Payne*, No. 13-5103, 2013 WL 5200425 (10th Cir. Sept. 17, 2013), the Court finds that this action should be dismissed.

Accordingly, upon de novo review, the Court:

- (1) ADOPTS the Report and Recommendation [docket no. 5] issued by the Magistrate Judge on September 24, 2013, and
- (2) DISMISSES this action without prejudice for lack of jurisdiction.

IT IS SO ORDERED this 21st day of October, 2013.


VICKI MILES-LAGRANGE
CHIEF UNITED STATES DISTRICT JUDGE